

## **EXHIBIT 1**

**The Commonwealth of Massachusetts  
Commission Against Discrimination  
One Ashburton Place, Boston, MA 02108  
Phone: (617) 994-6000 Fax: (617) 994-6024**

MCAD DOCKET NUMBER: 04BEM01562  
FILING DATE: 06/15/04

EEOC/HUD CHARGE NUMBER: 16CA401817  
VIOLATION DATE: 03/01/04

Name of Aggrieved Person or Organization:

Daniel A. Ferrie  
1600 Pine Street  
Dighton, MA 02715  
Primary Phone: (508) 669-6349 ext. \_\_\_\_\_

Named is the employer, labor organization, employment agency, or state/local government agency who discriminated against me:

K-Mart Corp.  
Attn: Human Resources  
3100 W. Big Beaver Rd.  
Troy, MI 48084  
Primary Phone: (248) 463-1000 ext. \_\_\_\_\_

No. of Employees: 25+

Work Location: Braintree, MA

Cause of Discrimination based on:

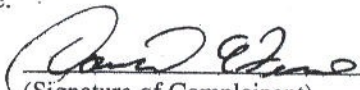
Age, Age of Complainant, specified; Other, Paragraph 4, Retaliation.

The particulars are:

I, Daniel A. Ferrie, the Complainant believe that I was discriminated against by K-Mart Corp., on the basis of Age, Other. This is in violation of M.G.L. 151B Section 4 Paragraph 1B, 4 and ADEA.

See Attached

I hereby verify, under the pains and penalties of perjury, that I have read this complaint and the allegations contained herein are true to the best of my knowledge.

  
(Signature of Complainant)

6/15/04  
Date

KMART 00465

COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

SUFFOLK, ss.

Daniel A. Ferrie,

Complainant,

04-BEM-

vs.

K Mart Corporation,

Respondents.

AFFIDAVIT OF DANIEL A. FERRIE

**I, Daniel A. Ferrie, do upon my oath depose and state:**

1. My name is Daniel A. Ferrie, and I live at 1600 Pine Street, Dighton, MA 02715.
2. I am 57 years of age.
3. In or around August, 1998, I was hired by Respondent, K Mart Corporation ("K Mart") as an Assistant Manager and assigned to its South Bay, Boston, Massachusetts store.
4. In the Spring of 1999 I discovered that, despite my superior performance, younger less experienced managers were being promoted ahead of me. I complained to my then District Manager, David Nappier, that I was being discriminated against because of my age.
5. After my above complaint, I was subsequently passed over for numerous promotions, including Store Manager and, later, District Manager positions. Virtually all of the these positions were given to individuals under 40 years of age, with far less experience.
6. In late 2001, for example, I was told that I would be promoted to District Manager. I did not get the position which was given to an individual under 40 with history of poor

performance at K Mart.

7. K Mart has a pattern and practice of engaging in this type of conduct concerning its older employees.
8. On numerous occasions during my employment, I was referred to as an "Old Bastard" and "old and fat" by my District Manager, Jon Swank.
9. On or about March 1, 2004 my employment with K Mart was involuntarily terminated, allegedly for violation of company policy.
10. This stated reasons for my termination were completely false and were a pretext for unlawful discrimination and retaliation.
11. At all times during my employment with K Mart, I performed my job in an exemplary manner and otherwise met and/or exceeded the legitimate performance expectations for my position.
12. I charge Respondent with unlawful discrimination in employment on account of age, including retaliation, in violation of Mass.G.L. c. 151B and the Age Discrimination in Employment Act, 29 U.S.C. 621, et seq.
13. I request that my Charge of Discrimination be filed with the United States Equal Employment Opportunity Commission.

SIGNED THIS 15<sup>TH</sup> DAY OF JUNE, 2004, UNDER THE PAINS AND PENALTIES OF PERJURY.

  
Daniel A. Ferrie